



BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 770**

**[EPA-HQ-OPPT-2017-0245; FRL-8452-03-OCSPP]**

**RIN 2070-AK94**

### **Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** On March 29, 2022, the Environmental Protection Agency (EPA) proposed to update of the incorporation by reference of several voluntary consensus standards in the Agency's formaldehyde standards for composite wood products regulations under the Toxic Substances Control Act (TSCA). Two additional voluntary consensus standards that are incorporated by reference in the existing regulations were updated by the issuing standards organization after the public comment period for the March 29, 2022, proposed rule ended. EPA is now proposing to update the incorporation by reference of the two additional voluntary consensus standards in the formaldehyde standards for composite wood products regulations.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2017-0245, through the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at

<https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Jeffrey Putt, Existing Chemicals Risk Management Division (Mail Code 7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-3703; email address: *putt.jeffrey@epa.gov*.

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: *TSCA-Hotline@epa.gov*.

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this action apply to me?*

You may be affected by this supplemental proposal if you manufacture (including import), sell, supply, or offer for sale in the United States any of the following: hardwood plywood, medium-density fiberboard, particleboard, and/or products containing these composite wood materials. You may also be affected by this supplemental proposal if you test or work with certification firms that certify such materials. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Veneer, plywood, and engineered wood product manufacturing (NAICS code 3212).
- Manufactured home (mobile home) manufacturing (NAICS code 321991).
- Prefabricated wood building manufacturing (NAICS code 321992).
- Furniture and related product manufacturing (NAICS code 337).
- Furniture merchant wholesalers (NAICS code 42321).
- Lumber, plywood, millwork, and wood panel merchant wholesalers (NAICS code

42331).

• Other construction material merchant wholesalers (NAICS code 423390), *e.g.*, merchant wholesale distributors of manufactured homes (*i.e.*, mobile homes) and/or prefabricated buildings.

- Furniture stores (NAICS code 4421).
- Building material and supplies dealers (NAICS code 4441).
- Manufactured (mobile) home dealers (NAICS code 45393).
- Motor home manufacturing (NAICS code 336213).
- Travel trailer and camper manufacturing (NAICS code 336214).
- Recreational vehicle (RV) dealers (NAICS code 441210).
- Recreational vehicle merchant wholesalers (NAICS code 423110).
- Engineering services (NAICS code 541330).
- Testing laboratories (NAICS code 541380).
- Administrative management and general management consulting services (NAICS code 541611).
- All other professional, scientific, and technical services (NAICS code 541990).
- All other support services (NAICS code 561990).
- Business associations (NAICS code 813910).
- Professional organizations (NAICS code 813920).

If you have any questions regarding the applicability of this action, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What is the Agency's authority for taking this action?*

EPA is issuing this supplemental proposal pursuant to the authority in section 601 of TSCA, 15 U.S.C. 2697, relating to formaldehyde emission standards for composite wood products.

*C. What action is the Agency taking?*

The Agency is issuing this proposed rule to supplement a recent Notice of Proposed Rulemaking (Ref. 1). EPA is specifically soliciting comment on the proposed inclusion of ANSI A208.1-2022 Particleboard and ANSI A208.2-2022 Medium Density Fiberboard to update the incorporation by reference (IBR) of these two voluntary consensus standards issued by the Composite Panel Association (CPA) in 40 CFR 770.99 to reflect the most recent editions. CPA updated these standards after EPA incorporated them in 40 CFR 770.99 and after the proposed rule (87 FR 17963) was published on March 29, 2022. The supplemental proposed rule would require regulated entities to adhere to the updated editions of the voluntary consensus standards when complying with the requirements of 40 CFR part 770.

EPA is proposing to update the IBR of these two standards assembled by CPA in 40 CFR 770.99 to reflect the most recent editions:

*1. Particleboard (ANSI A208.1-2022).*

This standard was approved through the American National Standards Institute (ANSI) and describes the requirements and test methods for dimensional tolerances, physical and mechanical properties and formaldehyde emissions for particleboard, along with methods of identifying products conforming to the standard. The ANSI standard was last updated in June 2022 (Ref. 2). EPA is proposing to take action to update the version of the standard incorporated by reference in 40 CFR 770.99 from ANSI A208.1-2016 to ANSI A208.1-2022.

*2. Medium Density Fiberboard (MDF) for Interior Applications (ANSI A208.2-2022).*

This standard was approved through ANSI and describes the requirements and test methods for dimensional tolerances, physical and mechanical properties and formaldehyde emissions for MDF, along with methods of identifying products conforming to the standard. The ANSI standard was last updated in April 2022 (Ref. 3). EPA is proposing to take action to update the version of the standard incorporated by reference in 40 CFR 770.99 from ANSI A208.2-2016 to ANSI A208.2-2022.

*3. Availability.*

Copies of these materials may be obtained from the Composite Panel Association, 19465 Deerfield Avenue, Suite 306, Leesburg, VA 20176, or by calling (703) 724-1128, or at [www.compositepanel.org](http://www.compositepanel.org).

Additionally, as a result of the proposed inclusion of these two standards, EPA is soliciting comment on the proposed update to 40 CFR 770.3 to reflect the proposed standards that would be incorporated by reference in 40 CFR 770.99.

*D. Why is the Agency taking this action?*

The Agency is proposing to adopt two voluntary consensus standards for incorporation by reference at 40 CFR 770.99. This rulemaking would update two voluntary consensus standards under 40 CFR 770.99 to their current editions to address outdated, superseded, and withdrawn standards that were updated after the proposed rule was published in March 2022. These new updates are needed because outdated versions have been replaced by these new standards. EPA is proposing to update these voluntary consensus standards to reflect the current editions that are in use by regulated entities and industry stakeholders. EPA believes that this action is warranted to facilitate regulated entities using the most up to date voluntary consensus standards to comply with the regulation at 40 CFR part 770.

*E. What are the incremental economic impacts?*

EPA anticipates no additional costs to stakeholders associated with this supplemental proposal for updated standards. This supplemental proposal is part of a routine action that updates voluntary consensus standards referenced in the incorporation by reference section of the regulation at 40 CFR part 770 to address updated, superseded, and withdrawn versions of the referenced standards.

## **II. References**

The following is a list of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the

referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products. Proposed Rule. *Federal Register*. 87 FR 17963, March, 29, 2022 (FRL-8452-02).

2. American National Standards Institute (ANSI). ANSI A208.1-2022, Particleboard.

3. ANSI. ANSI A208.2-2022, Medium Density Fiberboard (MDF) for Interior Applications.

### **III. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action under Executive Order 12866 (58 FR 51735, October 4, 1993) and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

*B. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). This action does not create any new reporting or recordkeeping obligations. OMB previously approved the information collection activities contained in the existing regulations and assigned OMB control number 2070-0185 (EPA ICR No. 2446.03).

*C. Regulatory Flexibility Act (RFA)*

The Agency certifies that this action will not have a significant economic impact on a

substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern is any significant adverse economic impact on small entities, and the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the proposed rule will update incorporation by reference of voluntary consensus standards in 40 CFR part 770 by adopting the most current versions of those standards. The updated versions of the standards are substantially similar to the previous versions. EPA expects that many small entities are already complying with the updated versions of the finalized standards. This action will relieve these entities of the burden of having to also demonstrate compliance with outdated versions of these standards.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, E.O. 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern environmental health or safety risks that the Agency has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

*I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51*

This action involves voluntary standards under NTTAA section 12(d), 15 U.S.C. 272 note. EPA is proposing to adopt the use of ANSI A208.1-2022 and ANSI A208.2-2022. Additional information about these standards, including how to access them, is provided under **SUPPLEMENTARY INFORMATION**.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This action will not materially alter the final rule as published and will update existing voluntary consensus standards incorporated by reference in the final rule.

**List of Subjects in 40 CFR Part 770**

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood.

**Dated:** September 12, 2022.



**Michal Freedhoff,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

Therefore, for the reasons set forth in the preamble, EPA proposes to amend 40 CFR chapter I, as proposed to be amended at 87 FR 17963 (March 29, 2022) as follows:

**PART 770—FORMALDEHYDE STANDARDS FOR COMPOSITE WOOD PRODUCTS**

1. The authority citation for part 770 continues to read as follows:

**Authority:** 15 U.S.C. 2697(d).

2. Amend § 770.3 by revising the definitions for “Medium-density fiberboard” and “Particleboard” to read as follows:

**§ 770.3 Definitions**

\* \* \* \* \*

*Medium-density fiberboard* means a panel composed of cellulosic fibers made by dry forming and pressing a resinated fiber mat (as determined under ANSI A208.2-2022 (incorporated by reference, see § 770.99)).

\* \* \* \* \*

*Particleboard* means a panel composed of cellulosic material in the form of discrete particles (as distinguished from fibers, flakes, or strands) that are pressed together with resin (as determined under ANSI A208.1-2022 (incorporated by reference, see § 770.99)). Particleboard does not include any product specified in PS 2-18 (incorporated by reference, see § 770.99).

\* \* \* \* \*

3. Amend § 770.99 by revising the introductory text and paragraphs (d)(5) and (6) to read as follows:

**§ 770.99 Incorporation by reference.**

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with [5 U.S.C. 552\(a\)](#) and [1 CFR part 51](#). To

enforce any edition other than that specified in this section, the Environmental Protection Agency (EPA) must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). Contact EPA at: OPPT Docket in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. For information on the availability of this material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) ; website: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html) . The material may be obtained from the following source(s):

\* \* \* \* \*

(d) \* \* \*

(5) ANSI A208.1-2022, Particleboard, Approved June 22, 2022, IBR approved for § 770.3.

(6) ANSI A208.2-2022, Medium Density Fiberboard (MDF) for Interior Applications, Approved April 14, 2022, IBR approved for § 770.3.